

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science hereby gives Notice of Intended Action to rescind Chapter 99, "Administrative and Regulatory Authority for the Board of Mortuary Science," amend Chapter 100, "Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments," Chapter 101, "Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments," Chapter 102, "Continuing Education for Funeral Directors," and Chapter 103, "Disciplinary Proceedings," and rescind Chapter 105, "Fees," Iowa Administrative Code.

These proposed amendments rescind duplicative language found in 645—Chapters 4 and 5; amend the definition of "authorized person" to be consistent with 2008 Iowa Acts, Senate File 473; specify criteria for exception authorized by Iowa Code section 156.4(1) by making an allowance for an Iowa-licensed funeral director to provide funeral services from an establishment licensed in another jurisdiction; clarify that every funeral and cremation establishment must hold a license issued by the Board; and update the discipline chapter to be consistent with legislative changes in 2008 Iowa Acts, House File 2212, and Iowa Code Supplement section 156.9.

Any interested person may make written comments on the proposed amendments no later than August 19, 2008, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail ebaird@idph.state.ia.us.

A public hearing will be held on August 19, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C and 2008 Iowa Acts, Senate File 473 and House File 2212.

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 99**.

ITEM 2. Rescind the "Authorized person" in rule **645—100.1(156)** and adopt the following **new** definition in lieu thereof:

"Authorized person" means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains pursuant to 2008 Iowa Acts, Senate File 473, section 10.

ITEM 3. Adopt the following **new** subrule 100.2(4):

100.2(4) Funeral directors who provide mortuary science services from funeral establishments located in another state. A funeral director who holds an active Iowa funeral director's license and whose practice is conducted from a funeral establishment located in another state may provide mortuary science services in Iowa if the establishment holds a current license in the state in which it is located, if such a license is required.

ITEM 4. Amend subrule 101.7(1), as follows:

~~**101.7(1)** Any person or any corporation, partnership, joint venture, limited liability company, voluntary organization or any other entity doing business in this state may erect, maintain, and operate a funeral establishment, cremation establishment, or both establishments, provided the necessary appliances and facilities for the care, preparation and disposition of human remains are in place and~~

~~proper licenses are obtained and maintained. A place of business devoted to providing any aspect of mortuary science or cremation services shall hold an establishment license issued by the board. An establishment license shall not be issued more than 30 days prior to the opening of a new establishment.~~

ITEM 5. Rescind and reserve paragraph **101.7(1)“i.”**

ITEM 6. Rescind and reserve rules **645—101.9(156)645—101.11(147)645—101.12(147).**

ITEM 7. Rescind and reserve rules
645—102.4(156,272C)645—102.5(156,272C)645—102.6(272C)645—102.9(272C).

ITEM 8. Amend paragraph **103.3(4)“b”** as follows:

b. Any violation of Iowa Code ~~section 144.32~~ chapter 144.

ITEM 9. Rescind subrule 103.3(12) and adopt the following **new** subrule in lieu thereof:

103.3(12) Conviction of any crime related to the practice of mortuary science or implicating the licensee’s competence to safely perform mortuary science services, including but not limited to a crime involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. For purposes of this subrule, "conviction" includes a guilty plea, deferred judgment, or other finding of guilt. A certified copy of the judgment is prima facie evidence of the conviction.

ITEM 10. Adopt the following **new** subrule 103.4(6):

103.4(6) The licensee or owner of the establishment has violated the smokefree air Act, 2008 Iowa Acts, House File 2212.

ITEM 11. Rescind and reserve **645—Chapter 105.**